IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 217 of 2005(A)

AGAINST THE COMMON ORDER DATED 27.10.2004 IN IA.8491 & 8493/2004 IN OS.1291/1999 of PRL.M.C.,ERNAKULAM

.....

PETITIONER:

---

1. ANITHA, W/O. K.R. RAMESH,
   KALAZHATHU VEEDU, PLASSERY PARAMBU,
   THANIKKAL, ELAMAKKARA, KOCHI-26.

2. K.R. RAMESH, S/O. RAMACHANDRAN,
   KALAZHATHU VEEDU, PLASSERY PARAMBU,
   THANIKKAL, ELAMAKKARA, KOCHI-26.

BY ADV. SRI.D.KRISHNA PRASAD
SRI.D.NARENDRANATH
SRI.K.A.SHAJI MATHEW

RESPONDENTS:

---

1. ASHA MUKUNDAN, W/O. MUKUNDAN,
   MAROTTIKKAL HOUSE, PACHALAM.

2. A.A. PONNAPPAN, S/O. ANTONY,
   ARACKAL HOUSE, TOG FACTORY ROAD,
   KALAMASSERY.

R1 BY ADV. SRI.T.B.THANKAPPAN
SRI.R.GIRISH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.217/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF APPLICATION IA.8491/04 IN O.S.1291/99 DT.11.10.04 FILED BY R1 BEFORE MUNSIFF'S COURT, ERNAKULAM.

EXT.P1(A) – TRUE COPY OF AFFIDAVIT DT.11.10.04 FILED IN SUPPORT OF EXT.P1.

EXT.P2 – TRUE COPY OF OBJECTION (COUNTER AFFIDAVIT) DT.16.10.04 FILED BY PETRS. IN EXT.P1.

EXT.P3 – TRUE COPY OF ORDER DT.27.10.04 IN I.A.8491/04 & 8493/04 IN O.S.1291/99 OF MUNSIFF'S COURT, ERNAKULAM.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.217 OF 2005

.....

DATED THIS THE 2ND AUGUST, 2007

J U D G M E N T

Strenuous and persuasive submissions of Mr.K.A.Shaji Mathew, learned counsel for the petitioners notwithstanding, I am unable to agree that Ext.P3 order of the learned Munsiff is vitiated to the extent of justifying interference by this Court under its visitorial jurisdiction which is to be exercised only in exceptional circumstances. The learned Munsiff on an evaluation of the evidence which had come on record thought that a report by an advocate commissioner is absolutely necessary for resolving the issues correctly. Of course, there was considerable delay. But that aspect of the matter has been taken care of by the learned Munsiff who has imposed reasonable costs also on the plaintiff-1st respondent. The challenge against Ext.P3 fails. The Writ Petition will stand dismissed. The time for payment of costs ordered by the learned Munsiff is enlarged by 10 days from today.

(PIUS C.KURIAKOSE, JUDGE)

tgl